UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,927	03/25/2004	Carl E. Banzhof	4121-37300	1914

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EXAMINER
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ART UNIT	PAPER NUMBER
2136	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/810,927	BANZHOF ET AL.
	Examiner	Art Unit	
	Carl Colin	2136	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>18 July 2007</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: *See Continuation Sheet.* (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1,5,7-8,10,11,13-14,18-25,30,32-45.*

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>see continuation sheet of section 3.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20070709

Continuation of 3. NOTE: In communications filed on 6/28/2007, applicant has amended claims 7, 14, 21, and 22. The claims as amended now recite that a firewall is raised whenever the computer system is physically reconnecting to said remediated network. Claim 14 is further amended to recite whenever initiating a connection... wherein the firewall allows specified permitted communications related to protecting said computer network and blocks all other communications with said computer network over said connection. Claim 21 is further amended to recite wherein resolving vulnerabilities in said computer system includes determining if said computer system has vulnerabilities. The proposed amendments cannot be entered as these claims raise new issues that would require further consideration and/or search.

Regarding claim 1, Applicant argues that Dadhia does not disclose establishing limitations when the computer connects to a network, rather implicit with the limitations of claim 1, if the condition of the rule is not satisfied..." Examiner respectfully disagrees. Claims 1-3 of Dadhia do not recite a negative limitation, for instance claim 2 specifically recites "wherein the determining of the security level of an instance of the application is performed when the instance of the application first attempts to access a network resource after startup". Applicant adds In particular, paragraph 0014 of Dadhia states, "If an instance of an application is up-to-date, then the only overhead may be when the instance is started to see if any limitations need to be placed. Since none need to be placed, there may be no or very little overhead when resources are accessed by the instance." Examiner would like to direct applicant to page 3, paragraph 25 as cited in the office action that contradicts applicant as this passage says that the execution of the application may be restricted even though the application itself is up-to-date. In response to applicant's argument that the combination of Dadhia and Linetski would result in a multilayered security protection, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See Ex parte Obiaya, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).
Applicant relies on specific example for making this allegation whereas Linetski discloses "As soon as a peripheral device is detached, the security module may revert or default to no longer trusting the peripheral device" and further discloses raising a firewall (preventing access) with respect to "securing network cables against similar types of attacks, such as preventing installation of hardware Ethernet sniffers, as well as protecting other device input/output (I/O) ports"
Applicant argues that Dadhia does not disclose determining if the computer system requires remediation, wherein the determination is performed by a component of the computer network.
Examiner respectfully disagrees because Dadhia states (par. 25) "Also, the condition may be based on state information other than security level such as the configuration of the host system or application instance, what resources are available to the host system, and so on. For example, the execution of an application may be restricted if the operating system has not been updated with the most recent patches, even though the application itself may be up-to-date." Examiner does not understand applicant's argument on page 22 with respect to disclosing "physically connecting or reconnecting a computer system" as claimed in claim 1. whereas Applicant is relying on examples in the specification for describing a physically disconnection., in any case, Dadhia implicitly discloses a physical disconnection when mentioning after startup because the computer before start up is physically unable to communicate to the network. Physical connection and reconnection is further disclose in Linetski as mentioned in the office action.
With respect to claim 7, applicant argues that Dadhia does not disclose verifying the computer system by a remediation server in the computer network. Examiner respectfully disagrees because the protection system of Dadhia may be implemented in server computers (see paragraph 21).
With respect to claim 14, applicant argues that Dadhia does not disclose performing a scan on said computer system with a component of said network. However, par. 12 describing virus protection and scanning proves otherwise.
With respect to claim 30, applicant argues that Dadhia does not teach or suggest closing a firewall upon power-up of the computer and upon initiation of registration with a computer network. See rejection of claim 30 in view of Freund (office action page 18).
With respect to claim 30, applicant argues that Dadhia does not teach or suggest verifying that the computer system meets standards of the network. As cited in the office action page 18, restricting access until the patched is installed at least meets the claim limitation.
As shown above, the request for reconsideration has been considered but does not place the application in condition for allowance.

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9/28/07